

**BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION**

In the Matter of)	
)	
Connect America Fund)	WC Docket No. 10-90
)	
)	
A National Broadband Plan for Our Future)	GN Docket No. 09-51
)	
)	
Establishing Just and Reasonable Rates for Local Exchange Carriers)	WC Docket No. 07-135
)	
)	
High-Cost Universal Service Support)	WC Docket No. 05-337
)	
)	
Developing an Unified Intercarrier Compensation Regime)	CC Docket No. 01-92
)	
)	
Federal-State Joint Board on Universal Service)	CC Docket No. 96-45
)	
)	
Lifeline and Link-Up)	WC Docket No. 03-109
)	

NOTICE OF INQUIRY AND NOTICE OF PROPOSED RULEMAKING

Initial Comments of the Wyoming Public Service Commission

April 18, 2011

The Wyoming Public Service Commission (WyPSC) hereby submits initial comments in the above captioned matters. Our initial comments are submitted in the context of the very broad scope and large scale of the Federal Communications Commission's (FCC) "Broadband Action Agenda."¹

Considering the complexity of the policy and technical issues raised in this context by the Notice of Inquiry (NOI) and Notice of Proposed Rulemaking (NPRM) in the instant proceeding, we offer general comments. Our comments stem from a basic agreement with the FCC that moving forward in promoting broadband adoption and deployment in high-cost, unserved, and underserved areas is vitally important. However, the FCC is missing some important details critical to the success of this initiative, particularly with regard to bridging the digital divide in places like Wyoming. The FCC's broadband business case gap analysis and cost models lack the fine focus to properly treat extremely high-cost, sparsely populated areas in Wyoming. Please see our June 12, 2010, comments responding to the FCC's April 21, 2010, NOI and NPRM concerning the Connect America Fund, A National Broadband Plan for Our Future, and High-Cost Universal Service Support (the Connect America Comments).² The comments we file herein are intended to be taken together with the context of our Connect America Comments.

SUMMARY

We feel like the FCC is starting a new race for broadband and Wyoming is not even at the starting line. We think it is good that the FCC is moving forward with a broadband agenda, but the FCC has a legacy of never solving the challenge of adequately funding high-cost

¹ <http://www.broadband.gov/plan/broadband-action-agenda.html> visited March 4, 2011.

² WC Docket No. 10-90, GN Docket No. 09-51, and WC Docket No. 05-337.

universal service in Wyoming.³ Experience in Wyoming shows the FCC's faith in markets does not work in certain areas. Wyoming presents unique challenges to universal service. The economics of universal service in Wyoming is typified by very high-costs driven in large part by a small population that is widely distributed geographically. According to the 2010 United States Census, Wyoming is ranked second lowest in population density and lowest in population.⁴

Wyoming has certified for several years that its non-rural carrier rates are not reasonably comparable to the FCC's rate comparability benchmark, the estimated nationwide weighted urban rate plus two standard deviations. For example, just over half of the states filed rate comparability certifications in 2010, and the rate for Wyoming non-rural customers, \$43.13 per line per month for Qwest in Zone 3 (*after* crediting the customer for federal and state universal service fund contributions), is significantly above the FCC's rate comparability benchmark of \$36.52. The Wyoming rate is the highest reported by the 29 states that filed rate comparability certifications.⁵ Furthermore, Wyoming's rural carrier customers see even higher rates, with the highest cost-based local rates in Wyoming being \$89.20 per month (before credit for state and federal universal service funding).⁶

Wyoming has undertaken substantial and meaningful efforts to promote, maintain, and advance universal service and competition. Wyoming has rebalanced rates, making local exchange rates cost-based with almost all residential and business lines at parity, and reducing implicit subsidies in switched access charges. Wyoming has had rules in place for a state

³ Docket Nos. WC Docket No. 05-337 and CC Docket No. 96-45, April 16, 2010, order on remand and memorandum opinion and order.

⁴ <http://2010.census.gov/2010census/data/> visited April 11, 2011.

⁵ Based upon a search of the FCC's Electronic Comment Filing System under Docket No. 96-45, filings received between August 15, 2010, and October 15, 2010, visited March 29, 2011.
http://fjallfoss.fcc.gov/ecfs/comment_search/input?z=on3lk

⁶ Wyoming PSC 2010 Annual Report to the Legislature, Table 7. http://psc.state.wy.us/htdocs/telephone_new.htm

universal service fund since 1996. All federal support is credited to customer bills. Wyoming has embraced local competition.

The FCC has previously proposed models and assumptions to identify gaps in the nation's broadband network and to quantify the amount of support needed to close those gaps at minimal expense. In our referenced Connect America Comments we have made it clear we believe that the FCC's model and assumptions cannot reliably identify broadband gaps or target support for rural areas in Wyoming. For rural areas characterized by sparse population, small population centers, and very large areas we recommend a more specific and relevant analysis involving local knowledge and closer partnership with states.

GENERAL COMMENTS

At paragraph 84 the FCC discusses the role of the states in preserving and advancing universal service. In our experience, this is an extremely important topic because state efforts impact rate comparability and are a major determinant of the size of the federal fund.

As recently as 2003, Wyoming had cost-based rates for its rural areas and no other state did.⁷ The WyPSC has fully implemented the pro-competitive statutory mandates of the Wyoming Telecommunications Act of 1995 (W.S. §§ 37-15-101, *et seq.*).⁸ W.S. § 37-15-402 required cost-based pricing for all retail telecommunications services in Wyoming; W.S. § 37-15-403 prohibited cross subsidies and eliminated implicit subsidies; and W.S. § 37-15-501 established the Wyoming Universal Service Fund. The WyPSC has fully implemented an explicit subsidy support program – the Wyoming Universal Service Fund. Carriers in Wyoming are required to

⁷ *Order on Remand, Further Notice of Proposed Rulemaking, and Memorandum Opinion and Order*, CC Docket No. 96-45, FCC 03-249 released October 27, 2003 (*Remand Order*).

⁸ The Wyoming Telecommunications Act (2007) required certain incumbent local exchange carriers to reduce access charges.

credit the entire amount of federal and state high cost support they receive to customers' bills. Nonetheless, the residential rates shown in **Tables 1 and 2** reflect the truly high cost, rural nature of much of Wyoming.

Table 1⁹

**Wyoming Public Service Commission
2010 Rate Comparability Analysis
Residential Rate Data
Pursuant to 47 C.F.R. § 54.316**

Rates for Residential Customers in the Most Rural Areas of Wyoming Served
by the Non-Rural Incumbent Local Exchange Carrier

Basic Residential Access Line Rate	\$69.35
Federal Universal Service Fund Credit	(\$31.98)
Wyoming Universal Service Fund Credit	<u>(\$5.39)</u>
Net Residential Rate Subject to Mandatory Surcharges and Taxes	\$31.98
Federal Subscriber Line Charge	\$6.50
Federal Universal Service Fund Surcharge	\$0.98
Wyoming Universal Service Fund Surcharge	\$0.69
Telecommunications Relay System Surcharge	\$0.06
Wyoming Lifeline Program Surcharge	\$0.00
E911 Emergency Calling System Tax	\$0.75
Federal Excise Tax	\$0.20
Wyoming State Sales Tax	<u>\$1.54</u>
Total Basic Residential Service Rate to Customer	<u>\$42.69</u>

⁹ Wyoming rate comparability certification September 29, 2010.

Table 2

Wyoming Local Exchange Rates Before Federal or State USF Credits

Company	Residential Rates			Business Rates		
	1995	12/31/2010	change	1995	12/31/2010	change
Qwest						
base rate area:	\$14.64	\$23.10	58%	\$30.56	\$23.10	-24%
farthest from base area:	\$24.54	\$69.35	183%	\$41.46	\$69.35	67%
Union Telephone						
base rate area:	\$8.49	\$40.95	382%	\$13.69	\$40.95	199%
farthest from base area:	\$26.49	\$88.47	234%	\$31.69	\$88.47	179%
CenturyTel of Wyoming						
base rate area:	\$10.00	\$15.00	50%	\$15.00	\$15.00	0%
farthest from base area:	\$17.50	\$28.00	60%	\$26.25	\$28.00	7%
Dubois Telephone	\$11.00	\$19.25	75%	\$19.55	\$24.25	24%
Range Telephone	\$11.65	\$17.50	50%	\$18.40	\$21.00	11%
RT Communications						
Shoshoni & central WY exch:	\$10.04	\$23.99	139%	\$19.66	\$23.99	4%
farthest from base area:	\$19.94	\$33.89	70%	\$29.56	\$33.89	4%
Thermopolis &	\$10.78	\$23.89	123%	\$22.03	\$23.99	9%
farthest from base area:	\$20.68	\$33.89	64%	\$31.93	\$33.89	6%
Worland exchange:	\$11.51	\$23.99	108%	\$24.42	\$23.99	-2%
farthest from base area:	\$21.41	\$33.89	58%	\$34.32	\$33.89	-1%
Pine Bluffs, Burns, Carpenter:	\$12.98	\$23.99	85%	\$29.19	\$23.99	-18%
farthest from base area:	\$22.88	\$33.89	48%	\$39.09	\$33.89	-13%
Embargo/United						
Guemsey exchange:	\$7.94	35.38	339%	\$13.39	35.38	160%
LaGrange exchange:	\$11.13	71.34	536%	\$17.35	71.34	308%
Lingle exchange:	\$11.13	71.34	536%	\$24.63	71.34	187%
Torrington exchange:	\$11.13	\$26.24	536%	\$24.63	\$26.24	6%
TCT West						
Greybull exchange:	\$10.14	\$27.31	172%	\$19.66	\$27.31	39%
Lovell exchange:	\$10.78	\$30.63	184%	\$22.03	\$30.63	39%
Basin exchange:	\$10.78	\$31.42	191%	\$22.03	\$31.42	43%
Frannie & Meeteetse:	\$10.78	\$45.08	318%	\$22.03	\$45.08	105%
Tri County Telephone						
Burlington exchange:	\$6.75	\$44.86	565%	\$10.25	\$44.86	338%
all other exchanges:	\$8.25	\$45.08	446%	\$14.00	\$45.08	222%
Teton Telecom **	\$29.65	\$31.25	5%	\$40.46	\$31.25	-23%
Silver Star	\$16.80	\$24.50	46%	\$25.20	\$24.50	-3%
Chugwater Telephone	\$10.50	\$80.76	264%	\$15.25	\$80.76	150%
All West	\$14.25	\$59.52	670%	\$20.25	\$59.52	430%

We conclude that non-rural carrier rural residential rates are not reasonably comparable to the nationwide urban rate benchmark. **Table 1** presents, in detail, the residential rate data for the most rural areas (Rural Zone 3) in Wyoming served by our non-rural carrier, Qwest, as required by the *Remand Order* and 47 C.F.R. § 54.316. This table shows rural residential customers served by the Wyoming non-rural incumbent local exchange carrier pay a monthly rate of \$42.69. The nationwide urban rate benchmark calculated by the FCC, against which urban/rural rate comparability is measured, equals the most recent average urban rate plus two weighted average standard deviations. The average urban rate and standard deviation are found in the most recent (August 8, 2008) *Reference Book of Rates, Price Indices, and Expenditures for Telephone Service* (the *Reference Book*) published by the Wireline Competition Bureau of the FCC. The nationwide urban rate benchmark of \$36.52 per month appears in Table 1.13 of the *Reference Book*.

Table 2 lists Wyoming incumbent local exchange companies and their cost-based rates for essential service as of December 31, 2010. These rates do not reflect credits for federal universal service fund high-cost support receipts. **Table 2** illustrates the effect of making rates cost-based, showing the sharp contrast between rates in 1995 before implicit support from access charges was wrung out, and today, after rates were made cost-based. Note that cost-based rates for several rural carriers serving sparsely populated high-cost areas in Wyoming are over \$50 per month, and some customers are faced with prices over \$80 per month.

We respectfully submit that these are the kinds of rates that Wyomingites will have to pay if the FCC does not give sufficient care and attention given to our high-cost challenge as the FCC contemplates transitioning support away from legacy voice services to broadband. The

reality is the FCC hasn't solved this problem that was unsolved at the outset, and the FCC is not presenting any solutions yet. Many of these customers do not have competitive alternatives if they live outside the footprint of urban-driven competitors or even mobile networks that still do not reach the end of the canyon road or stretch very far from interstate highway corridors. The FCC's faith in markets to solve this problem may be misplaced, but sufficient federal universal service support remains the FCC's obligation.

We encourage the FCC to consider very careful reformation of the existing universal service regime. We agree that endemic factors influencing the lack of reasonable comparability between rural and urban rates include the continued presence in some states of substantial amounts of implicit subsidies in local rates which force down the average urban rate and consequently the nationwide urban rate benchmark. Wyoming has reduced those implicit subsidies, we have made rates cost-based, and we have a state universal service fund.

Figure 1
Consultant's Plan – A Multi-Step Proposal

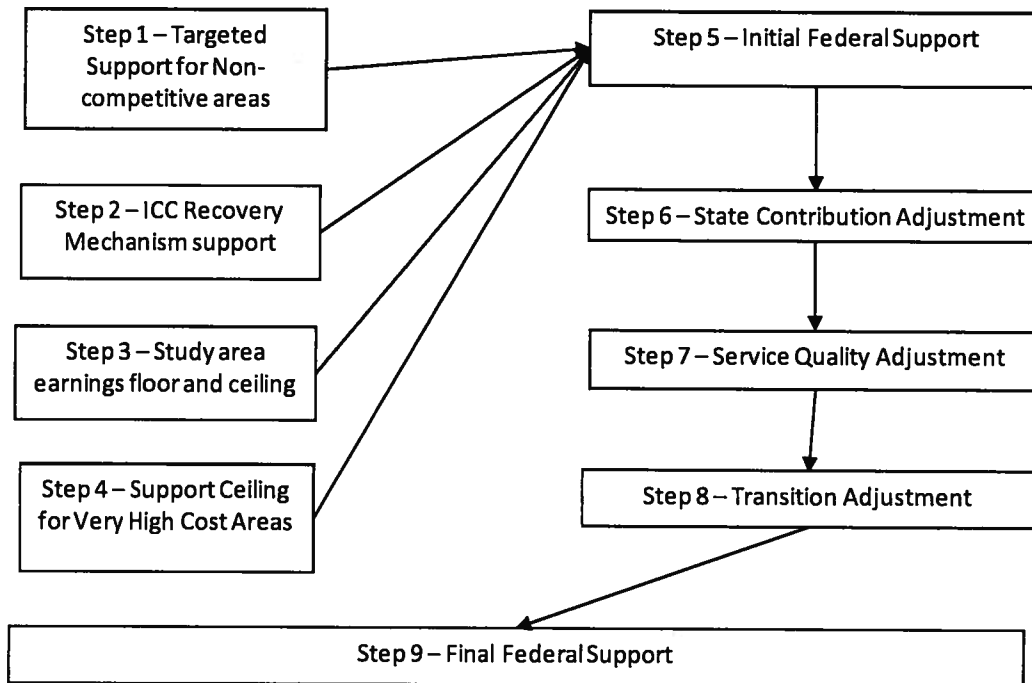


Figure 1 is a copy of a schematic diagram of the multi-step process of a reformed federal universal service fund, found in the Federal-State Joint Board Consultant's Plan. With reference to that diagram we offer a few additional comments:

- Step 1. We agree with targeting support. Wyoming is the only state that disaggregates and targets non-rural carrier high cost model support to high-cost areas with a zone-based concept. Non-rural carrier lines inside the base rate area (usually defined by city limit boundaries) do not receive support, and all support is targeted to zones 1, 2, and 3 to reflect the increasingly high-cost of service for customers located farther from dense populations. As long as the FCC takes

account of situations like Wyoming's targeting is efficient, sensible, and can serve to contain the size of the fund.

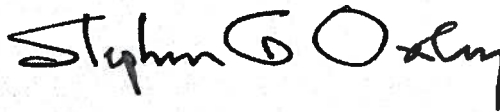
- Step 3. We do not oppose an earnings ceiling. However, we note that Wyoming, like many states, no longer has rate of return, rate-base regulation authority.
- Step 4. We are concerned about the notion of a support ceiling for very high cost areas because there may be some very high cost areas in Wyoming which could be deprived of necessary and sufficient support. Incumbent carriers in Wyoming typically have authorized limits on how much they will spend on line extensions. Qwest has a limit of \$10,000. This means that there is a significant number of customers in Wyoming who have requested service but whose orders remain unfilled because it would cost more than \$10,000 to construct a telephone line to them; and they would have to bear the additional cost themselves.
- Step 6. We support the notion in that states must make a contribution and if they do, this may mean that states that do not have a state fund may not get as much support as states that do. We also stand by the principle that it is a federal responsibility to assure sufficient funding.
- Step 7. Finally, we agree that inherent in a carrier's ability to receive support is its associated responsibility to provide standard quality service. However, a service quality filter creates a difficult situation for states in reviewing annual eligible telecommunications carrier (ETC) certifications. States want their ETCs to provide quality service; but, if the ETC does not do that, denying certification has the effect of reducing federal support generally and also possibly punishing the customers because they might not get a federal credit anymore.

In conclusion, we appreciate the opportunity to file these general comments. Wyoming presents unique universal service challenges and we ask the FCC to carefully consider the matter.

Respectfully submitted April 18, 2011.



ALAN B. MINIER, Chairman



STEVE OXLEY, Deputy Chairman



KATHLEEN A. LEWIS, Commissioner